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8 *Aramark Services, Inc.)*

9
10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 RAUL HERRERA,

13 Plaintiff,

14 vs.

15 ARAMARK SERVICES, INC., a foreign
16 corporation; DOES I through V; and ROE
BUSINESS ENTITIES I through V; inclusive,

17 Defendants.
18

CASE NO. 2:19-cv-01594-GMN-DJA

**STIPULATION AND ORDER TO
EXTEND DISCOVERY DEADLINES
(SECOND REQUEST)**

19 Pursuant to LR 26-3 and the scheduling order (**Doc. 8**) in this matter, Plaintiff RAUL
20 HERRERA, by and through his attorneys of record, the law firm GREENMAN GOLDBERG
21 RABY & MARTINEZ, and Defendant ARAMARK CORRECTIONAL SERVICES, LLC,
22 incorrectly named in the complaint as ARAMARK SERVICES, INC., (collectively “the Parties”) by and through its attorneys, LEWIS BRISBOIS BISGAARD & SMITH LLP (collectively “the
23 Parties”) hereby respectfully submit their Stipulation and Order to Extend Time for Discovery
24 (Second Request) pursuant Rules 6(b) and 26(f) of the Federal Rules of Civil Procedure and LR
25 IA 6-1 and LR 26-3.
26

27 This is the Parties’ Second Request for an Extension of Time, and the same is not brought
28 for purposes of delay, but rather for the sole purpose of allowing the parties to diligently and

1 adequately prepare their respective cases during ongoing settlement discussions or trial.

2 This stipulation is brought in compliance with LR 26-3 as it is filed 20 days before the
3 expiration of Plaintiff's Initial Expert Disclosure deadline. Due to certain complexities in this case,
4 and in particular, the ongoing COVID-19 pandemic and resulting governmental and Court
5 precautionary restrictions, the parties jointly request a 90-day extension of the deadline for
6 plaintiff's initial expert disclosure, defendant's initial expert disclosures, rebuttal expert
7 disclosures, and deadline to file motion(s) to add parties or amend pleadings as detailed herein.
8

9 **REASONS WHY THE DISCOVERY REMAINING WAS NOT COMPLETED WITHIN**
10 **THE DEADLINES CONTAINED IN THE DISCOVERY SCHEDULING ORDER**

11 The extension is sought for the following reasons:

12 The parties acknowledge that they must be diligent in continuing discovery when they are
13 better able to and have moved discovery forward, however, the COVID-19 slowed down the
14 normal time it takes to respond to written discovery as people were working from home and
15 related issues that negatively impacted the situation. Nevertheless, good cause exists to extend the
16 discovery deadlines as the Parties would like to engage in meaningful discovery. Due to the
17 ongoing COVID-19 pandemic, there are certain limitations regarding deponents and their
18 availability for deposition. Also, certain discovery activities are impeded by the social distancing,
19 travel restrictions and other requirements currently being implemented by federal, state and local
20 governments. (*see* U.S. Dist. Ct. NV Temporary General Orders 2020-03, 2020-04 and 2020-05),
21

22 Nevada Governor Sisolak declared a state of emergency due to COVID-19. The Nevada
23 State Courts have subsequently issued numerous Administrative Orders indicating that the
24 COVID-19 emergency "as constituting 'good cause' and 'excusable neglect' warranting the
25 extension of time on non-essential civil case types." (*See* Eighth Judicial District Court
26 Administrative Order 20-09 and Administrative Order 20-13). The Nevada Supreme Court has
27 also recommended suspending all jury trials and suggested that the current COVID-19 emergency
28 constitutes both "good cause" and also "excusable neglect" warranting extensions in non-essential

1 civil cases, such as the present case. (*See* Nev. Sup. Ct. AO-0013, at p.2 ¶2 and p.6 ¶8). Thus,
2 moving the discovery deadlines back as requested herein is a reasonable request as COVID-19 has
3 slowed down and/or impacted almost every aspect of life and it has delayed completion of
4 discovery on the current schedule.

5 Furthermore, essential information must be obtained that will greatly impact this case, for
6 instance, Plaintiff's counsel is still continuing on working to obtain surveillance video of the
7 subject incident from an entity that is not a party to this litigation. This video is vital to this case as
8 it will clarify the events leading up to and after the subject incident that will directly affect
9 ongoing settlement discussions. In addition, discovery, deposition, motion practice, and trial
10 preparation as well as the ongoing settlement discussions hinge on the events captured by the
11 surveillance video and the parties would like that information before conducting depositions.
12

13 To date, the parties have exchanged documents disclosures and supplemented mandatory
14 disclosures as needed. Defendant has also propounded discovery, and Plaintiff has responded to
15 written discovery. Defendant granted Plaintiff multiple extensions to respond to written discovery.
16 Plaintiff has also propounded written discovery to Defendant and Plaintiff granted multiple
17 extensions to Defendant to respond to written discovery. The aforementioned COVID-19
18 pandemic slowed down the entire process in responding to discovery. Defendant timely responded
19 to Plaintiff's written discovery but the COVID-19 pandemic caused delays in responding to
20 Plaintiff's written discovery. Currently, depositions have not been scheduled due to the recent
21 COVID-19 preventative restrictions. Production and receipt of the aforementioned surveillance
22 video is also in progress.
23

24 ...

25 ...

26 ...

27 ...

28 ...

1 **IT IS HEREBY STIPULATED AND AGREED** to by the Parties that the discovery
2 deadlines in this matter be continued for a period of 90 days to allow the parties additional time to
3 complete discovery, retain and disclose experts and allow parties additional time to continue
4 ongoing settlement discussions. This additional time will also account for the current COVID-19
5 preventative restrictions and any potential future preventative actions taken by federal, state and
6 local governments should they be implemented.
7

8 **STATEMENT SPECIFYING THE DISCOVERY THAT HAS BEEN COMPLETED.**

- 9 1. The parties participated in the Fed.R.Civ.P 26(f) conference;
10 2. Parties have made their disclosures and supplements pursuant to Fed.R. Civ. P.
11 26.1(a)(1);
12 3. Defendant propounded written discovery to Plaintiff.
13 4. Plaintiff responded to Defendant's written discovery.
14 5. Plaintiff propounded written discovery to Defendant.
15 6. Defendant responded to Defendant's written discovery.
16 7. Plaintiff has issued written discovery requesting production of materials from entities
17 that are not a party to this case
18

19 **SPECIFIC DESCRIPTON OF DISCOVERY THAT REMAINS TO BE DONE**

- 20 1. Discovery response and productions from entities that are not a party to this lawsuit;
21 2. Plaintiff's deposition is still pending;
22 3. Designation of expert witnesses;
23 4. Designation of rebuttal expert witnesses;
24 5. An Independent Medical Examination of Plaintiff;
25 6. Fact and witness depositions will be taken including the following:
26 A. Plaintiff;
27 B. Plaintiff's treating physicians;
28 C. Defendant's FRCP 30(b)(6) witnesses;

1 D. Fact witnesses; and

2 E. Expert witnesses

3 7. Additional follow up written discovery.

4 The Parties are diligently moving forward with discovery. The Parties hereby request an
5 extension of discovery deadlines and now respectfully request this Honorable Court grant this
6 joint request to move the deadline for discovery back. The Parties propose additional Interim
7 Status Reports be set to keep the Court apprised of discovery progress as detailed herein.

8 The current deadline for Plaintiff's Initial Disclosure of Experts is Monday, August 10,
9 2020. Accordingly, this request is being brought 20 days prior to that date. Here, good cause exists
10 because the parties have been diligent in conducting discovery. However, additional time is
11 needed to complete the investigation in this matter and other related discovery and to account for
12 the current COVID-19 environment and ongoing protective measures.

13 **PROPOSED SCHEDULE FOR COMPLETING REMAINING DISCOVERY**

14 As a result of the above, it is requested that the discovery deadlines be continued 90 days
15 from their present deadlines as follows along with the addition of multiple additional joint interim
16 status reports to keep the Court apprised of discovery progress:

17 **PROPOSED SCHEDULE FOR COMPLETING REMAINING DISCOVERY**

	<u>Current Date</u>	<u>Proposed Date</u>
18 ■ 1 st Joint Interim Status Reports	03/20/2020	Completed
19 ■ 2nd Joint Interim Status Report	09/17/2020	12/15/2020
20 ■ 3rd Joint Interim Status Report	11/02/2020	02/01/2021
21 ■ Amend Pleadings/Add Parties	08/10/2020	11/09/2020
22 ■ Plaintiff's Initial Expert Disclosure	08/10/2020	11/09/2020
23 ■ Defendant's Initial Expert Disclosure	09/10/2020	12/08/2020
24 ■ Rebuttal Expert Disclosure	10/12/2020	01/11/2021
25 ■ Discovery Cut-off	12/09/2020	03/08/2021
26 ■ Dispositive Motions	01/07/2021	04/07/2021

▪ Joint Pretrial Order

04/08/2021

07/07/2021

Extensions or Modifications of the Discovery Plan and Scheduling Order:

Any stipulation or motion must be made no later than 21 days before the subject deadline.

Requests to extend discovery deadlines must comply fully with LR 26-3.

CONCLUSION

Based on the foregoing the Parties respectfully request that this Honorable Court approve this Second Stipulation to Extend the Time for Discovery.

RESPECTFULLY SUBMITTED

DATED this 25th day of June, 2020.

DATED this 25th day of June, 2020.

**GREENMAN, GOLDBERG, RABY &
MARTINEZ**

**LEWIS BRISBOIS BISGAARD & SMITH
LLP**

/s/ William T. Martin

/s/ Steven Abbott

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2700 s. Maryland Pkwy, Ste. 100

Attorney for Defendant

Las Vegas, NV 89109

Attorneys for Plaintiff

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Case No.: 2:19-cv-01594-GMN-DJA
Stipulation and Order to Extend
Discovery Deadlines (Second Request)

ORDER

Based upon the Stipulation of the Parties hereto, and with good cause appearing therefore,
IT IS HEREBY ORDERED, that the Stipulation to Extend herein above is hereby Granted.

DATED: this 26th day of June, 2020


UNITED STATES MAGISTRATE JUDGE

Respectfully Submitted By:

LEWIS BRISBOIS BISGAARD & SMITH LLP

/s/ Steven Abbott

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*Attorneys for Defendant Aramark Correctional
Services, LLC (incorrectly named in complaint as
Aramark Services, Inc.)*

****NOTE - The Local Rules as amended on 4/17/2020 eliminated former Local Rule 26-3's requirement for Interim Status Reports. Therefore, the parties are not required to submit an Interim Status Report. The parties are directed to review the revised local rules for further changes.****

Rainey, Sherry

From: Abbott, Steven
Sent: Wednesday, June 24, 2020 6:02 PM
To: 'William Martin'; Foremaster, Steven
Cc: Rainey, Sherry
Subject: RE: Herrera File

Thanks Will

Best

Steven

From: William Martin [mailto:wmartin@ggrmlawfirm.com]
Sent: Wednesday, June 24, 2020 5:23 PM
To: Foremaster, Steven
Cc: Rainey, Sherry; Abbott, Steven
Subject: [EXT] RE: Herrera File

Yes you have my consent to attach my signature to the SAO.



Will Martin

Associate Attorney

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2770 S. Maryland Pkwy Ste. 100 Las Vegas, NV 89109



From: Foremaster, Steven <Steven.Foremaster@lewisbrisbois.com>
Sent: Wednesday, June 24, 2020 4:33 PM
To: William Martin <wmartin@ggrmlawfirm.com>
Cc: Rainey, Sherry <Sherry.Rainey@lewisbrisbois.com>; Abbott, Steven <Steven.Abbott@lewisbrisbois.com>; Foremaster, Steven <Steven.Foremaster@lewisbrisbois.com>
Subject: FW: Herrera File

Will,

The revised SAO is now attached. Please review and let us know asap if we can us your e-signature on same.

Foremaster

From: Foremaster, Steven
Sent: Wednesday, June 24, 2020 4:27 PM
To: 'William Martin'
Cc: Rainey, Sherry; Abbott, Steven; Foremaster, Steven
Subject: RE: Herrera File

Will,

Here is the prior email with the revised SAO. Please let us know we can use your e-signature on same so we can get this filed today. Thanks.

Foremaster

From: Foremaster, Steven
Sent: Wednesday, June 24, 2020 3:15 PM
To: 'William Martin'
Cc: Rainey, Sherry; Abbott, Steven; Foremaster, Steven
Subject: RE: Herrera File

Will,

Attached is the revised edition reflecting consistent reference to LR 26-3 and LR IC 6.1 for your review and approval.

Foremaster

From: William Martin [<mailto:wmartin@ggrmlawfirm.com>]
Sent: Wednesday, June 24, 2020 2:52 PM
To: Abbott, Steven; Foremaster, Steven
Cc: Rainey, Sherry
Subject: [EXT] RE: Herrera File

26.4 – my typing isn't keeping up with my thoughts. Call me if you are confused. Sorry



Will Martin

Associate Attorney

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From: William Martin
Sent: Wednesday, June 24, 2020 2:51 PM
To: 'Abbott, Steven' <Steven.Abbott@lewisbrisbois.com>; 'Foremaster, Steven' <Steven.Foremaster@lewisbrisbois.com>
Cc: 'Rainey, Sherry' <Sherry.Rainey@lewisbrisbois.com>
Subject: RE: Herrera File

I meant it says 26.6 erroneously in some places. 26.4 is about responding to written discovery.



Will Martin

Associate Attorney

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From: William Martin

Sent: Wednesday, June 24, 2020 2:50 PM

To: Abbott, Steven <Steven.Abbott@lewisbrisbois.com>; Foremaster, Steven <Steven.Foremaster@lewisbrisbois.com>

Cc: Rainey, Sherry <Sherry.Rainey@lewisbrisbois.com>

Subject: RE: Herrera File

I just remembered the local rule for extension is 26-3 – some places in the SAO it was listed as 16.4



Will Martin

Associate Attorney

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2770 S. Maryland Pkwy Ste. 100 Las Vegas, NV 89109



From: Abbott, Steven <Steven.Abbott@lewisbrisbois.com>

Sent: Wednesday, June 24, 2020 2:42 PM

To: William Martin <wmartin@ggrmlawfirm.com>; Foremaster, Steven <Steven.Foremaster@lewisbrisbois.com>

Cc: Rainey, Sherry <Sherry.Rainey@lewisbrisbois.com>

Subject: RE: Herrera File

Thank you Will

Best

Steven

From: William Martin [<mailto:wmartin@ggrmlawfirm.com>]

Sent: Wednesday, June 24, 2020 2:37 PM

To: Abbott, Steven; Foremaster, Steven

Subject: [EXT] RE: Herrera File

External Email

You have my approval to include my electronic signature on this SAO extending discovery. Thanks.



Will Martin

Associate Attorney

O: 702.384.1616 | F: 702.384.2990 | www.ggrmlawfirm.com

2770 S. Maryland Pkwy Ste. 100 Las Vegas, NV 89109



From: Abbott, Steven <Steven.Abbott@lewisbrisbois.com>

Sent: Wednesday, June 24, 2020 2:08 PM

To: Foremaster, Steven <Steven.Foremaster@lewisbrisbois.com>; William Martin <wmartin@ggrmlawfirm.com>

Subject: RE: Herrera File

Importance: High

Good afternoon Will:

Please find attached the proposed SAO to extend discovery in the above-referenced matter as we discussed yesterday. Please contact me with any questions or changes, - if none please provide consent to add your electronic signature.

Best

Steven



Steven Abbott

Partner

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From: Foremaster, Steven

Sent: Tuesday, June 23, 2020 5:36 PM

To: 'wmartin@ggrmlawfirm.com'

Cc: Abbott, Steven; Foremaster, Steven

Subject: Herrera File

Will,

Would you be willing to email me the Word version of the First Request to Extend Discovery Deadlines your office filed back in April?

Sincerely,



Steven L. Foremaster
Attorney
Steven.Foremaster@lewisbrisbois.com
T: 702.693.4304 F: 702.893.3789

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